

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000 14TH STREET, N.W. SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	
)	DATE: October 29, 2002
Leslie K. Pinkston)	
Director of Scheduling)	
Executive Office of the Mayor)	DOCKET NO.: CF 2002-04

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) pursuant to a referral from the Office of the Inspector General for the District of Columbia (hereinafter OIG) in a published report entitled "Report of Investigation of the Fundraising Activities of the Executive Office of the Mayor (EOM)" (hereinafter Report) (OIG Control Number 2001-0188 (S)). In the Report, the Inspector General has alleged that certain current and former employees engaged in behavior that violated provisions of the District of Columbia Personnel Manual Standards Of Conduct.

In the instant case, the Inspector General has alleged that Leslie K. Pinkston, Director of Scheduling for the Executive Office of the Mayor (hereinafter respondent), engaged in private or personal business activity on government time and with the use of government resources on behalf of events entitled the "Mayor's Hope and Opportunity for Outstanding Performance Corner" (hereinafter Mayor's HOOP Corner), the "Mayor's December 10, 2000 Holiday Reception for Foster Children" (hereinafter Children's Reception), and the "Mayor's December 21, 2000 Adult Holiday Reception" (hereinafter Adult Reception) , in violation of §§1800.1, 1803.1(f), 1803.2(a) and 1804.1(b) of the District Personnel Manual (hereinafter DPM).¹

¹ DPM §1800.1 reads as follows:

Employees of the District government shall at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

DPM §1803.1(f) reads as follows:

Upon OCF's evaluation of the material amassed in this inquiry, it was decided that the parameters of this inquiry extended solely to the DPM employee conduct regulations. There was not any credible evidence that the respondent committed any violations of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974 (the Act), as amended, D.C. Official Code §§1-1101.01 et seq. (2001 Edition). Any alleged violation of the Act by the respondent would be predicated upon the premises that respondent realized personal gain through official conduct, engaged in any activity subject to the reporting requirements and contribution limitations of the Act, or used District government resources for campaign related activities.² See D.C. Official Code §1-1106.01. Additionally, fines may be assessed for any violation of the Act. OCF's review did not reveal any such activity.

Accordingly, where a violation of the DPM employee conduct regulations has occurred, OCF is limited with respect to any action which otherwise may be ordered. Inasmuch as the DPM consists of personnel regulations, fines cannot be assessed. The Director may only recommend disciplinary action to the person responsible for enforcing the provisions of the employee conduct rules against the respondent.

An employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in, or create the appearance of the following:

...

(f) Affecting adversely the confidence of the public in the integrity of government.

DPM §1803.2(A) reads as follows:

District employees shall not solicit or accept, either directly or through the intercession of others, any gift, gratuity, favor, loan, entertainment, or other like thing of value from a person who singularly or in concert with others:

- (a) Has, or is seeking to obtain, contractual business or financial relations with the D.C. government;
- (b) Conducts operations or activities that are subject to regulation by the D.C. government; or
- (c) Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities.

DPM §1804.1(b) reads as follows:

An employee may not engage in any outside employment or other activity, which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not compatible with government employment include but are not limited to, the following:

...

- (b) Using government time and resources for other than official business[.]

² D.C. Law 14-36, "Campaign Finance Amendment Act of 2001," effective October 13, 2001, prohibits the use of District government resources for campaign related activities.

By letter dated June 7, 2002, OCF requested the appearance of the respondent at a scheduled hearing on June 14, 2002. The purpose of the hearing was to show cause why the respondent should not be found in violation of the Standards of Conduct, which the respondent was alleged to have violated in the OIG Report. On June 13, 2002, by letter, the respondent requested an extension for said hearing date, which was approved. On June 18, 2002, OCF issued a letter rescheduling the hearing for July 9, 2002.

Summary of Evidence

The OIG has alleged that the respondent violated the above referenced provisions of the DPM as a result of her use of government resources to coordinate non-government events during government time. Consequently, the Inspector General has alleged that the respondent engaged in activities which were not compatible with the full and proper discharge of her responsibilities as a government employee. The OIG relies exclusively upon its Report, which is incorporated herein in its entirety.

On July 9, 2002 the respondent appeared with counsel, John Pressley, Esq., before the OCF at a scheduled hearing, conducted by William O. SanFord, Esq., Senior Staff Attorney. Wesley Williams, OCF Investigator, was also present.

Synopsis of Proceedings

The respondent is currently employed as the Director of Scheduling with the Executive Office of the Mayor, which is a position to which she was appointed in May 2000. She has been employed with the Government of the District of Columbia since January 1999. Prior to her appointment to her current position, she was employed as a Program Analyst with the Office of the City Administrator. Prior to that position she was employed as a Special Assistant to the Mayor. The alleged inappropriate activities occurred during her tenure in her current position.

During examination by Mr. SanFord, the respondent testified that she has had “very little” exposure to the District of Columbia Personnel Regulations. The respondent further testified that she had read and understood the allegations against her in the portions of the Report that pertained to her.

The respondent was asked whether she was familiar with a program known as the “Mayor’s HOOP Corner.” After she conceded knowledge of the program, she was asked to explain her involvement. The respondent stated that she became involved with the program when asked by the Mayor’s former Deputy Chief of Staff, Mark Jones (Jones). He was her superior at the time, and he requested her to help identify students to be provided free tickets to a Washington Wizards basketball game at the MCI Arena on one occasion in January 2001.

Respondent also testified that she participated in the planning of two (2) holiday

parties that the Mayor hosted during the Christmas holiday season of December 2000 pursuant to requests from Jones. Respondent testified that she did not engage in any fundraising or solicitation of funds on behalf of those or any other programs.

During direct examination by counsel, the respondent testified that it was her understanding that the Mayor's Hoop Corner was an authorized function of the Mayor's Office. She reiterated that she never solicited funds or engaged in any fundraising on behalf of Hoop Corner or any other programs. She testified that she did not at any time assume any record-keeping or management responsibilities for any of the programs. She further stated that she did not sign or distribute any checks on behalf of the programs.

The respondent summarized her testimony and stated that she simply performed the functions that were assigned to her by her supervisor, Jones. She added that she performed these tasks with the understanding and belief that that all of the activities had been approved by the Mayor and were not inappropriate.

Findings of Facts

Having reviewed the allegations and the record herein, I find:

1. Respondent, Leslie K. Pinkston, as Director of Scheduling in the Executive Office of the Mayor (hereinafter EOM), is a public official required to file a Financial Disclosure Statement (hereinafter FDS) with OCF.
2. The Mayor's HOOP Corner was a program developed by Jones, and administered thereby through the respondent, to distribute tickets to Wizards' basketball games at the MCI Arena to deserving District public school students. Report at 151-152.
3. The Children's Reception was a 2000 Christmas holiday party administered by Jones, through the respondent, for District foster children identified through the District of Columbia Child and Family Services Agency. Report at 161.
4. The Adult Reception was a 2000 Christmas holiday party administered by Jones, through the respondent, in honor of Mayor Anthony Williams. Report at 162.
5. For the Kids Foundation (FTK) was a private, non-profit organization created early in 2000 by Vivian Byrd, then Trade Development Specialist, D.C. Lottery and Charitable Games Control (DCLB), and Jones, then Deputy Director of Operations, DCLB, designed to develop and implement, under the auspices of the Mayor, civic programs for the benefit of the children of the District of Columbia. Report at 157.
6. Urban Assistance Fund (UAF) was a private, non-profit organization, which, at one time, was qualified to solicit monies and to receive tax-exempt donations, organized

in 1995 by Alfonso “Bobby” Spence, then Vice President of Marketing for DataNet Systems Corporation (a District government contractor), to provide “. . .financial assistance and social services to disadvantaged District residents.” Report at 162.

7. Jones conducted the businesses of FTK and UAF at his government office at 1 Judiciary Square, 441 4th Street, N.W., Washington, D.C. See In the Matter of Mark Jones, Docket No. PI 2001-101 (November 7, 2001) (hereinafter Matter of Jones).
8. The Mayor’s HOOP Corner, the Children’s Reception, and the Adult Reception were District of Columbia government programs.
9. Jones funded the Mayor’s HOOP Corner, the Children’s Reception, and the Adult Reception through solicitations for FTK and UAF, and especially from businesses doing business with the District of Columbia, at his government office. See Matter of Jones.
10. Jones tasked respondent with the primary responsibilities of planning and organizing the Mayor’s HOOP Corner, the Children’s Reception, and the Adult Reception. Report generally at 157-165.
11. Respondent performed these assignments because Jones instructed her to do so.³
12. Respondent trusted Jones, as her supervisor, not to involve her in any activity which conflicted with the ethics laws of the District of Columbia.
13. Respondent did not engage in any fundraising or the soliciting of contributions on behalf of the private, non-profits, FTK and UAF, at her government office; nor, did she conduct business on behalf of these organizations out of her government office.

Conclusions of Law

1. Respondent is an employee of the District of Columbia government and is subject to the enforcement provisions of the employee conduct regulations at DPM §§1800 et seq.
2. In 2000, because Jones conducted FTK and UAF business, notwithstanding that they were private, non-profit organizations, out of his government office at 1 Judiciary Square, 441 4th Street, N.W., Washington, D.C., the respondent believed that the business of FTK and UAF was government business.

³ Whether or not any of her actions violate the “Anti-Deficiency Act” must be determined by the Office of the Corporation Counsel or the Office of the Chief Financial Officer. Report at Specific Finding 29.

3. The Mayor's HOOP Corner, the Children's Reception and the Adult Reception, notwithstanding that these events received funding through solicitations by Jones for FTK and UAF, both private, non-profit organizations, were District of Columbia government programs.
4. Respondent used District of Columbia government time and resources to participate in the planning, organizing and implementation of the Mayor's HOOP Corner, the Children's Reception and the Adult Reception, funded through solicitations by Jones for FTK and UAF; and, notwithstanding the private, non-profit nature of both FTK and UAF, respondent did not violate any employee conduct regulations because the civic events, partially funded by FTK and UAF, were government sponsored events.
5. Respondent used District of Columbia government time and resources to plan, organize and implement the Mayor's HOOP Corner, the Children's Reception and the Adult Reception, funded through solicitations by Jones for FTK and UAF; and, notwithstanding the private, non-profit nature of both FTK and UAF, respondent did not violate any employee conduct regulations because respondent was directed in these tasks by her supervisor.
6. Respondent used District of Columbia government time and resources to plan, organize and implement the Mayor's HOOP Corner, the Children's Reception and the Adult Reception, funded through solicitations by Jones for FTK and UAF; and, notwithstanding the private, non-profit nature of both FTK and UAF, respondent did not violate any employee conduct regulations because respondent was engaged in government business.
7. The responsibility for enforcing the provisions of the employee conduct regulations against the respondent rests with Mayor Anthony A. Williams (hereinafter the Mayor).

Recommendation

I hereby recommend the Director to dismiss this matter. Notwithstanding, it is further recommended that the Director advise the Mayor to warn the respondent that it is imperative that she, as a District government employee, become closely familiar with the provisions of the employee conduct regulations, and avail herself, if she has not already done so, of any ethics seminars or workshops scheduled by the District government.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that this matter be dismissed.

IT IS FURTHER ORDERED that the Mayor be advised to warn the respondent that it is imperative that she, as a District government employee, become closely familiar with the provisions of the employee conduct regulations, and avail herself, if she has not already done so, of any ethics seminars or workshops scheduled by the District government.

This Order may be appealed to the Board of Elections and Ethics within 15 days from issuance.

Date

Cecily E. Collier-Montgomery
Director

Parties Served:

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SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing order.

S. Wesley Williams
Investigator

NOTICE

Pursuant to 3 DCMR § 3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000 14th Street, NW, Washington, D.C. 20009.